

**§ 330.403 Noncompetitive actions.**

An agency may fill a restricted position by the appointment by noncompetitive action of a nonpreference eligible only when authorized by OPM.

**§ 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.**

An individual agency and OPM both have additional responsibilities when the agency decides, in accordance with the Office of Management and Budget (OMB) Circular A-76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities are applicable if a preference eligible holds a competitive service position that is:

- (a) A restricted position as designated in 5 U.S.C. 3310 and § 330.401; and
- (b) In retention tenure group tenure I or II, as defined in § 351.501(b) (1) and (2) of this chapter.

**§ 330.405 Agency placement assistance.**

An agency that separates a preference eligible from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 must, consistent with § 330.602, advise the employee of the opportunity to participate in available career transition programs. The agency is also responsible for:

- (a) Applying OMB's policy directives on the preference eligibles' right of first refusal for positions that are contracted out to the private sector; and
- (b) Cooperating with State units as designated or created under title I of the Workforce Investment Act of 1998, to retrain displaced preference eligibles for other continuing positions.

[65 FR 52642, Aug. 30, 2000, as amended at 65 FR 64133, Oct. 26, 2000]

**§ 330.406 OPM placement assistance.**

OPM's responsibilities include:

- (a) Assisting agencies in operating positive placement programs, such as the Career Transition Assistance Plan, which is authorized by subpart F of this part;
- (b) Providing interagency selection priority through the Interagency Ca-

reer Transition Assistance Plan, which is authorized by subpart G of this part; and

- (c) Encouraging cooperation between local Federal activities to assist these displaced preference eligibles in applying for other Federal positions, including positions with the U.S. Postal Service.

**§ 330.407 Eligibility for the Interagency Career Transition Assistance Plan.**

(a) A preference eligible who is separated from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 has interagency selection priority under the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part. Section 330.704 covers the general eligibility requirements for the Interagency Career Transition Assistance Plan.

- (b) A preference eligible covered by this subpart is eligible for the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force from a restricted position.

**Subpart E—Restrictions To Protect Competitive Principles****§ 330.501 General restriction on movement after competitive appointment.**

An agency may promote an employee or reassign him to a different line of work, or to a different geographical area, and it may transfer a present employee or reinstate a former employee of the same or another agency to a higher grade or different line of work, or to a different geographical area, only after 3 months have elapsed since the employee's latest nontemporary competitive appointment. OPM may waive the restriction against movement to a different geographical area when it is satisfied that the waiver is consistent with the principles of open competition.

[37 FR 11965, June 16, 1972]